

L&M COMPANIES, INC., et al.,

Plaintiffs,

v.

UNIQUE FOOD COMPANY, INC.,
et al.,

Defendants.

On March 13, 2019, C.H. Robinson Worldwide, Inc., filed a Declaration of PACA Proof of Claim [D.E. 72] (“C.H. Robinson Claim”). On March 13, 2019, General Produce, LLC, filed a Declaration of PACA Proof of Claim [D.E. 73] (“General Produce Claim”). On March 19, 2019, D&T Brokerage, Inc., filed a Declaration of PACA Proof of Claim [D.E. 74] (“D&T Claim”). On March 25, 2019, the Thomas Colace Company, Inc., filed a Declaration of PACA Proof of Claim [D.E. 78] (“Thomas Colace Claim”). On March 25, 2019, Nickey Gregory Company, LLC, filed a Declaration of PACA Proof of Claim [D.E. 79] (“Nickey Gregory Claim”). On March 25, 2019, Nature’s Way Farms, Inc., filed a Declaration of PACA Proof of Claim [D.E. 80] (“Nature’s Way Claim”). On March 25, 2019, Lipman-Texas, LLC, filed a Declaration of PACA Proof of Claim [D.E. 81] (“Lipman Claim”). On March 25, 2019, JH Honeycutt & Sons, Inc., filed a Declaration of PACA Proof of Claim [D.E. 82] (“Honeycutt Claim”). On March 25, 2019, R.S. Hanline & Co., Inc., filed a Declaration of PACA Proof of Claim [D.E. 84] (“Hanline Claim”). On March 26, 2019, Patterson Repack, Inc., filed a Declaration of PACA Proof of Claim [D.E. 86-1] (“Patterson Repack Claim”). On March 26, 2019, Ford’s Produce Company, filed a Declaration of PACA Proof of

Claim [D.E. 86-2] ("Ford's Produce Claim"). On March 26, 2019, Ford's Produce Company, filed a Declaration of PACA Proof of Claim [D.E. 86-2] ("Ford's Produce Claim"). On March 26, 2019, L&M Companies, Inc., filed a Declaration of PACA Proof of Claim [D.E. 89] ("L&M Claim"). On March 26, 2019, Palumbo Foods, LLC filed a Declaration of PACA Proof of Claim [D.E. 85] ("Palumbo Food Claim") (collectively, all claims are referred to as the "PACA Claims").

Pursuant to the Consent Injunction and PACA Claims Procedure Order entered February 19, 2019 [D.E. 63] (the "PACA Order"), defendants filed the Omnibus Objection to Attorney's Fees and Interest, objecting to amounts claimed in the PACA Claims [D.E. 102].

Pursuant to the PACA Order, "any PACA claimant whose claim is subject to a Timely Objection may file with the court a detailed response to any Timely Objection received, and serve same on all Notice Counsel, as well as counsel for the objecting party. A claim will be disallowed if a Timely Objection was filed and the claimant fails to file and serve a timely response." [D.E. 63] ¶ 33. The Omnibus Objection to Attorney's Fees and Interest named all PACA Claims filed and was properly served on all claimants.

Defendants moved for a determination of the Omnibus Objection to Attorney's Fees [D.E. 126]. The following PACA Claims are ones for which no response to the Omnibus Objection to Attorney's Fees and Interest was filed: Hanline Claim, Palumbo Foods Claim, Patterson Repack Claim, Ford's Produce Claim, and L&M Claim.

On April 30, 2019, JH Honeycutt & Sons, Inc., Lipman-Texas, LLC, Nature's Way Farms, Inc., Nickey Gregory Company, LLC, and The Thomas Colace Company, Inc. filed a Response to the Omnibus Objection to Attorneys' Fees [D.E. 111]; C.H. Robinson Worldwide, Inc. and General Produce, LLC filed a Response to the Omnibus Objection to Attorneys' Fees [D.E. 115]; and D&T Brokerage, Inc., filed a Response to the Omnibus Objection to Attorneys' Fees [D.E. 118].


Pursuant to the Consent Injunction and PACA Claims Procedure Order entered February 19, 2019 [D.E. 58] (the "PACA Order"), and on the Defendants' Motion to Rule on the Omnibus Limited Objection to Claims for Attorney's Fees [D.E. 126] ("Omnibus Objection to Attorney's Fees"), defendants moved for a determination of the Omnibus Objection to Attorney's Fees and for an order setting for future determination those objections which remain unresolved.

The court finds cause to disallow PACA protection to any attorneys' fees or interest claimed in the Hanline Claim, Palumbo Foods Claim, Patterson Repack Claim, Ford's Produce Claim, and L&M Claim, regardless of the validity of any underlying claim. Additionally, and in the interest of judicial economy, the court finds cause to extend the time within which a motion for determination on the claim must be filed on the Omnibus Objection to Claim for Attorney's Fees and Responses with respect to the following PACA Claims: the Honeycutt Claim, the Lipman Claim, Nature's Way Claim, Nickey Gregory Claim, Thomas Colace Claim, C.H. Robinson Claim, General Produce, LLC, and D&T Brokerage Claim ("Responding Claimants").

In sum, defendants' Motion for Determination of Omnibus Objection to Attorneys' Fees [D.E. 126] is GRANTED. The objection is SUSTAINED as to attorneys' fees and interest claimed in the R.S. Hanline & Co., Inc., Palumbo Foods, LLC, Patterson Repack, Inc., Ford's Produce Company, and L&M Companies, Inc. claims. This order does not determine the other amounts claimed by each claimant.

The court will set the deadline for filing a motion for a determination of the Omnibus Objection to Claim for Attorneys' Fees and Responses with respect to the Responding Claimants after resolving the remaining objections to claims entered pursuant to the PACA order.

SO ORDERED. This 21 day of May 2019.



JAMES C. DEVER III
United States District Judge